United Nations A/CN.4/607/Add.1

General Assembly

Distr.: General
17 June 2009

Original: English

International Law Commission
Sixty-first session
Geneva, 4 May-5 June and 6 July-7 August 2009

Shared natural resources

Comments and observations received from Governments

Addendum

Contents

Page

I. Introduction ... 2
II. Comments and observations on the questionnaire on oil and gas received from Governments ... 2
A. General comments ... 2
B. Question 1 ... 2
C. Question 2 ... 10
D. Question 3 ... 13
E. Question 4 ... 18
F. Question 5 ... 20

09-37263 (E) 130709

Please recycle

I. Introduction

1. Additional responses to the questionnaire were received from the following 17 States: Cuba, Cyprus, Guyana, Iraq, Jamaica, Kuwait, Lebanon, Myanmar, Norway, Portugal, Saint Vincent and the Grenadines, Slovakia, Tajikistan, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. The responses are organized, to the extent possible, on the basis of the questions contained in the questionnaire.

II. Comments and observations on the questionnaire on oil and gas received from Governments

A. General comments

Guyana

2. Exploration for oil and gas in Guyana dates back to early Dutch colonial explorers. The structure of a still-emerging oil and gas sector has its roots in near pre-independence arrangements, which have evolved to what currently prevails. Guyana has an undisputable petroleum discovery in the Takutu Basin of no commercial consequence. There is no oil and gas production from Guyana.

3. The frontiers for oil and gas exploration in Guyana are: (a) the extent of Guyana's maritime area, which is part of the regional geological feature referred to as the Guyana-Suriname Basin; (b) the extension of the same basin onto the coastal onshore; and (c) the section of the Takutu Basin in Rupununi Guyana.

4. The States that share boundaries with Guyana's oil and gas frontiers are: (a) in the maritime area: Barbados, Suriname, Trinidad and Tobago and Venezuela (Bolivarian Republic of); (b) in the coastal extension onshore: Suriname and Venezuela (Bolivarian Republic of); and (c) in the Takutu Basin, Rupununi District: Brazil.

B. Question 1

Do you have any agreement(s), arrangement(s) or practice with your neighbouring State(s) regarding the exploration and exploitation of transboundary oil and gas resources or for any other cooperation for such oil or gas?

Such agreements or arrangements should include, as appropriate, maritime boundary delimitation agreements, as well as unitization and joint development agreements or other arrangements.

Please provide a copy of the agreement(s) or arrangement(s) or describe the practice.

Cuba

5. Cuba has no agreements, arrangements or practices with neighbouring States related to prospecting for or exploitation of transboundary oil and gas resources, or to their distribution, because to date there is no evidence of any transboundary oil

and gas resources shared with Haiti, Jamaica, Mexico or the United States of America.

6. There are bilateral maritime delimitation agreements between Cuba and Haiti, Jamaica, Mexico and the United States, but they do not refer to transboundary oil and gas resources or any other kind of cooperation regarding such resources.

Cyprus

7. Cyprus has signed the following agreements:

(a) Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic Zone (ratified);

(b) Agreement between the Republic of Cyprus and the Republic of Lebanon on the Delimitation of the Exclusive Economic Zone (not yet ratified);

(c) Framework Agreement between the Republic of Cyprus and the Arab Republic of Egypt concerning the Development of Cross-Median Line Hydrocarbon Resources (not yet ratified).

8. A copy of the Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic Zone is provided, as it has been ratified by the House of Representatives.[1] Copies of the other two agreements are not provided as they have not yet been ratified by the House of Representatives (they are in the process of ratification).

Guyana

9. The Guyana Geology and Mines Commission, as the Government agency responsible for the regulation of petroleum operations, is unaware of any Government agreements or practice with neighbouring States regarding oil and gas exploration and exploitation of transboundary oil and gas resources. The Commission for and/or on behalf of the Government of Guyana has not entered into agreements with sister agencies of neighbouring States or companies operating under the jurisdiction of neighbouring States.

10. The Commission is aware that, within the purview of the Ministry of Foreign Affairs, there is an initiative for cooperation between Suriname and Guyana, which includes technical cooperation in the petroleum sector. The Petroleum Division of the Commission and Staatsolie of Suriname have visited each other and Petroleum Division staff have had exchanges of a technical nature for capacity-building of skills. No understanding is in place to deal with possible transboundary oil and gas resources, such as unitization and joint development arrangements. Technical cooperation in the petroleum sector ceased following the maritime dispute between Guyana and Suriname, and has not been revived since.

Iraq

11. Iraq has several oil fields shared with its neighbouring States, some of which are in production and some of which are partially non-producing. Shared hydrocarbons with the Islamic Republic of Iran, Kuwait, Saudi Arabia and the

[1] Text available for consultation at the Codification Division of the Office of Legal Affairs.

Syrian Arab Republic also appear to exist. Nevertheless, Iraq has not concluded any agreement regarding the exploration and exploitation of the shared oil fields.

Jamaica

12. The Maritime Delimitation Treaty between the Government of Jamaica and the Government of Colombia,[1] signed on 12 November 1993, provides, inter alia, for the exploitation, management and conservation of the maritime areas between the two countries. Pursuant to article 3 of the Treaty, the parties established a "joint regime area", pending the determination of their jurisdictional limits in the area designated in that article. Under article 3, the joint regime area is designated as a zone of joint management, control, exploration and exploitation of the living and non-living resources.

13. In the joint regime area, either party may, inter alia, carry out activities for the exploration and exploitation of the natural resources, whether living or non-living, and other activities for the economic exploitation and exploration of the joint regime area.

14. Under the Treaty, activities relating to exploration and exploitation of non-living resources must be carried out on a joint basis agreed by both parties.

Kuwait

15. **Wafra Joint Operations**. There is a divided zone marked between Saudi Arabia and Kuwait where the oil and gas resources are shared 50 per cent by each State.

16. **Khafji Joint Operations**. There are agreements, arrangements and practices with neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources or for any other cooperation in respect of such oil and gas. There is a Joint Petroleum Production Operations Agreement for the shareholders, which lays down the principles and guidelines for the management and operations of the oil and gas fields within the offshore divided zone. This Agreement also stipulates the formation and functioning of two high-level committees, the Joint Executive Committee and the Joint Operating Committee, which are the main authorities for strategic and operating decisions in the offshore divided zone for the exploration and exploitation of transboundary oil and gas resources. The Agreement defines and describes the roles and authority of these Committees.

Lebanon

17. The Government of Lebanon signed an agreement with the Government of Cyprus in 2007 concerning the joint economic border. This agreement has not yet been ratified.

Myanmar

18. As Myanmar does not have transboundary oil and gas resources with neighbouring States, presently there are no agreements, arrangements or practices with neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources.

Norway

19. Norway has entered into the following agreements:

(a) Agreement between Norway and the United Kingdom relating to the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom, 10 May 1976 (United Nations, *Treaty Series*, vol. 1098, No. 16878);

(b) Agreement relating to the amendment of the Agreement between Norway and the United Kingdom relating to the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom, 25 August 1998 (United Nations, *Treaty Series*, vol. 2210, No. 16878);

(c) Exchange of notes regarding the amendment of the Agreement between Norway and the United Kingdom relating to the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom, 21 June 2001;

(d) Agreement between Norway and the United Kingdom relating to the exploitation of the Statfjord Field Reservoirs and the offtake of petroleum therefrom, 16 October 1979 (United Nations, *Treaty Series*, vol. 1254, No. 20551);

(e) Amendments to the Agreement between Norway and the United Kingdom relating to the exploitation of the Statfjord Field Reservoirs and the offtake of petroleum therefrom, 24 March 1995 (United Nations, *Treaty Series*, vol. 1914, No. 20551);

(f) Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 16 October 1979 (United Nations, *Treaty Series*, vol. 1249, No. 20387);

(g) Agreement supplementary to the Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 22 October 1981 (United Nations, *Treaty Series*, vol. 1288, No. 20387);

(h) Second agreement supplementary to the Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 22 June 1983 (United Nations, *Treaty Series*, vol. 1352, No. 20387);

(i) Amendments to the Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 9 August 1999;

(j) Agreement between Norway and the United Kingdom relating to the delimitation of the continental shelf between the two countries, 10 March 1965 (United Nations, *Treaty Series*, vol. 551, p. 213);

(k) Protocol supplementary to the Agreement between Norway and the United Kingdom relating to the delimitation of the continental shelf between the two countries, 22 December 1978;

(l) Agreement between Norway and the United Kingdom concerning the Playfair and Boa petroleum fields, 4 October 2004 (United Nations, *Treaty Series*, vol. 2309, No. 41167);

(m) Framework Agreement between Norway and the United Kingdom concerning cross-boundary petroleum cooperation, 4 April 2005;

(n) Agreement between Norway and Iceland concerning transboundary hydrocarbon deposits, 3 November 2008 (not yet in force as at 17 March 2009);

(o) Agreement relating to the delimitation of the continental shelf between Norway and Denmark, signed at Oslo on 8 December 1965 (United Nations, *Treaty Series*, vol. 634, p. 71);

(p) Exchange of notes of 24 April 1968 constituting an agreement amending the agreement relating to the delimitation of the continental shelf between Norway and Denmark of 8 December 1965 (United Nations, *Treaty Series*, No. 9052);

(q) Exchange of notes of 4 June 1974 constituting an agreement amending the agreement relating to the delimitation of the continental shelf between Norway and Denmark of 8 December 1965 (United Nations, *Treaty Series*, vol. 952, No. 9052);

(r) Agreement between Norway and Sweden relating to the delimitation of the continental shelf, 24 July 1968;

(s) Agreement between Norway and Denmark concerning the delimitation of the continental shelf in the area between Norway and the Faroe Islands and concerning the boundary between the fishery zone at the Faroe Island and Norwegian Economic Zone, 15 June 1979;

(t) Agreement between Norway and Denmark concerning the delimitation of the continental shelf in the area between Jan Mayen and Greenland and concerning the boundary between the fishery zones in the area, 18 December 1995 (United Nations, *Treaty Series*, vol. 1903, No. 32441);

(u) Additional Protocol to the agreement of 18 December 1995 between Norway and Denmark concerning the delimitation of the continental shelf in the area between Jan Mayen and Greenland and the boundary between the fishery zones in the area, 11 November 1997 (United Nations, *Treaty Series*, vol. 2100, No. 32441);

(v) Agreement between Norway on the one hand, and Denmark together with the Home Rule Government of Greenland on the other hand, concerning the delimitation of the continental shelf and the fisheries zones in the area between Greenland and Svalbard, 20 February 2006 (United Nations, *Treaty Series*, No. 42887);

(w) Agreement between the Russian Federation and the Kingdom of Norway on the maritime delimitation in the Varangerfjord area, 11 July 2007 (United Nations, *Treaty Series*, No. 45114).

Portugal

20. Portugal responded "No".

Saint Vincent and the Grenadines

21. Saint Vincent and the Grenadines responded "Nil" with respect to oil exploitation.

Slovakia

22. Slovakia has concluded two agreements regarding the exploration and the exploitation of transboundary resources:

(a) Agreement between the Government of the Czechoslovak Socialist Republic and the Austrian Federal Government on Principles of Geological Cooperation between the Czechoslovak Socialist Republic and the Republic of Austria (of 23 January 1960). Slovakia is a successor State in respect of this agreement, which determines the exchange of geological records and their common review as well as the coordination of common geological exploration in the border areas;

(b) Common Oil and Gas Resources Exploitation Agreement between the Czechoslovak Socialist Republic and the Republic of Austria, signed in 1960 (Slovakia is a successor State in respect of this agreement). It determines the conditions of exploitation and sharing of gas.

Tajikistan

23. Tajikistan has no agreements, arrangements, or practices with its neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources or for any other cooperation for such oil and gas.

Thailand

24. Thailand has entered into the Agreement between the Government of the Kingdom of Thailand and the Government of Malaysia on the Constitution and other Matters relating to the Establishment of the Malaysia-Thailand Joint Authority.[3]

United Kingdom

25. The United Kingdom has entered into the following agreements:

(a) 1965, United Kingdom-Norway agreement on delimitation of the continental shelf (Cmnd 2757);

(b) 1965, United Kingdom-Netherlands agreement on delimitation of the continental shelf under the North Sea (Cmnd 3253);

(c) 1965, United Kingdom-Netherlands agreement on exploitation of single geological structures extending across the dividing line on the North Sea continental shelf (Cmnd 3254);

(d) 1966, United Kingdom-Denmark agreement on delimitation of areas of the continental shelf (Cmnd 3278);

(e) 1971, United Kingdom-Netherlands protocol amending the delimitation of the continental shelf under the North Sea agreement (Cmnd 5173);

(f) 1971, United Kingdom-Denmark agreement on the delimitation of areas of the continental shelf (Cmnd 5193);

(g) 1971, United Kingdom-Germany agreement on the delimitation of the continental shelf (Cmnd 5192);

(h) 1973, United Kingdom-Norway agreement on the transmission of petroleum by pipeline from Ekofisk and neighbouring areas (Cmnd 5423);

(i) 1976, United Kingdom-Norway agreement on the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom (Cmnd 7043);

(j) 1978, United Kingdom-Norway protocol supplementary to the agreement on the delimitation of the continental shelf (Cmnd 7853);

(k) 1979, United Kingdom-Norway agreement on the exploitation of the Statfjord Field Reservoirs (Cmnd 8282);

(l) 1979, United Kingdom-Norway agreement on the exploitation of the Murchison Field Reservoir (Cmnd 8270);

(m) 1981, United Kingdom-Norway agreement supplementary to the Murchison Field Reservoir agreement (Cmnd 8577);

(n) 1982, United Kingdom-France agreement on the delimitation of the continental shelf in the area east of 30 minutes west of the Greenwich Meridian (Cmnd 8859);

(o) 1983, United Kingdom-Norway second agreement supplementary to the Murchison Field Reservoir agreement (Cmnd 9083);

(p) 1985, United Kingdom-Norway Heimdal treaty (Cmnd 201);

(q) 1988, United Kingdom-Ireland agreement on the delimitation of areas of the continental shelf (Cmnd 990);

(r) 1991, United Kingdom-Belgium agreement on the delimitation of the continental shelf (Cmnd 2499);

(s) 1991, United Kingdom-France agreement on the completion of the delimitation of the continental shelf in the southern North Sea (Cmnd 1992);

(t) 1992, United Kingdom-Netherlands agreement on the exploitation of the Markham Field Reservoirs (Cmnd 2254);

(u) 1992, United Kingdom-Ireland protocol supplementary to agreement on the delimitation of areas of the continental shelf (Cmnd 2302);

(v) 1993, United Kingdom-Ireland agreement on the transmission of natural gas by pipeline (Cmnd 2377);

(w) 1995, United Kingdom-Norway exchange of notes on the amendment of the agreement on the exploitation the Statfjord Field Reservoir (Cmnd 2941);

(x) 1997, United Kingdom-Belgium agreement on the transmission of natural gas by pipeline (Cmnd 5738);

(y) 1998, United Kingdom-Norway agreement on the amendment of the agreement on the exploitation of the Frigg Field Reservoir (Cmnd 5513);

(z) 1998, United Kingdom-Norway framework agreement on the laying, operation and jurisdiction of interconnecting submarine pipelines (Cm 5762);

(aa) 1999, United Kingdom-Norway exchange of notes amending the agreement on the Murchison Field Reservoir (Cmnd 4857);

09-37263

(bb) 1999, United Kingdom-Denmark agreement on the delimitation of areas of the continental shelf in the area between the United Kingdom and the Faroe Islands (Cmnd 4514);

(cc) 2001, United Kingdom-Norway exchange of notes on the amendment of the agreement on the exploitation of the Frigg Field Reservoir (Cmnd 5258);

(dd) 2004, United Kingdom-Norway exchange of notes on the Playfair and Boa petroleum fields (Cmnd 6412);

(ee) 2004, United Kingdom-Netherlands exchange of notes amending the agreement on the delimitation of the continental shelf under the North Sea (as amended) (Cmnd 6749);

(ff) 2004, United Kingdom-Ireland agreement on the transmission of natural gas through a second pipeline (Cmnd 6674, not yet in force);

(gg) 2005, United Kingdom-Norway framework agreement concerning cross-boundary petroleum cooperation (Cm 6792, not yet in force);

(hh) 2005, United Kingdom-Netherlands agreement on the transmission of natural gas through a pipeline (Cmnd 6675, not yet in force);

(ii) 2005, United Kingdom-Belgium exchange of notes amending the agreement on the delimitation of the continental shelf under the North Sea (Cmnd 7204);

(jj) 2004, United Kingdom-Norway agreement on the amendment of the Heimdal treaty (Cm 6694, not in force)."

Uruguay

26. Uruguay has no knowledge of the existence of any treaties or other agreements, arrangements or practices subscribed to or undertaken by Uruguay with neighbouring countries in relation to the exploration and exploitation of transboundary oil and gas resources.

United States

27. Aside from certain provisions in one maritime boundary treaty with Mexico (described below), the United States has not entered into any international agreements or arrangements, nor established any practice with neighbouring States, in relation to transboundary oil and gas reservoirs along the United States maritime or continental shelf boundaries with Mexico or Canada. The United States is not aware that any such transboundary reservoirs have been identified. The United States also has identified no agreements, arrangements or established practice with its neighbouring States specific to the exploration and exploitation of transboundary oil and gas resources along its land boundaries.

28. The United States has two maritime boundary and delimitation agreements with Mexico. The first is the United States-Mexico Treaty on Maritime Boundaries (signed at Mexico City on 4 May 1978 and entered into force on 13 November 1997), which establishes the maritime boundary between the United States and Mexico out to 200 miles in the Gulf of Mexico and the Pacific Ocean, using the principle of equidistance. The agreement does not address the exploration or exploitation of transboundary oil and gas resources. In addition, the agreement left

two "gaps", or areas outside the exclusive economic zone of either State: one in the eastern Gulf, which concerned Cuba, Mexico and the United States, and one in the western Gulf, which concerned Mexico and the United States.

29. To address the gap in the western Gulf, the United States and Mexico concluded the Treaty on the Delimitation of the Continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles, with annexes (signed at Washington, D.C., on 9 June 2000 and entered into force on 17 January 2001) (the Western Gap Treaty).[1] Again applying the principle of equidistance, the Treaty allots 62 per cent of the 17,190 km^2 area to Mexico and 38 per cent to the United States. The Treaty also established a buffer zone extending 1.4 nautical miles on either side of the boundary in the Western Gap, within which neither party may engage in drilling or exploitation of the continental shelf for a period of 10 years.

30. While unitization and joint development arrangements were not part of the Western Gap Treaty, it does address the subject of possible oil and gas transboundary reservoirs. In particular, the Treaty requires each party, in accordance with its national laws and regulations, to facilitate requests from the other party to authorize geological and geophysical studies to help determine the possible presence and distribution of transboundary reservoirs. In addition, each party is required to share geological and geophysical information in its possession in order to determine the possible existence and location of transboundary reservoirs. In the event any transboundary reservoir is identified, the Treaty obligates the parties "to seek to reach agreement for the efficient and equitable exploitation of such transboundary reservoirs" (see art. V, para. 1 (b)).

C. Question 2

Are there any joint bodies, mechanisms or partnerships (public or private) involving exploration, exploitation or management of transboundary oil or gas?

Please provide information describing the nature and functioning of such arrangements, including governing principles.

Cuba

31. Cuba has no joint body, mechanism or partnership for transboundary oil and gas resource prospecting, exploitation or management with neighbouring States.

Cyprus

32. The Framework Agreement between the Republic of Cyprus and the Arab Republic of Egypt concerning the Development of Cross-Median Line Hydrocarbon Resources provides that when a cross-median line hydrocarbon reservoir is identified and may be exploited, each party (the Republic of Cyprus and the Arab Republic of Egypt) shall require the concerned licensees to meet and reach a unitization agreement for the joint development and exploitation of the said reservoir. The unitization agreement shall define the cross-median line hydrocarbon reservoir taking into account the following elements: (a) the geographical extent and the geological features of the cross-median line reservoir and the proposed area for joint development and exploitation of the said reservoir (the "unit area"), (b) the total amount of the hydrocarbons in place and reserves, and the methodology used

for the calculations; (c) the apportionment of reserves between each side of the median line; (d) the procedure for the determination of any of the above items, where appropriate, by an independent third-party expert; and (e) the procedure for periodical redetermination of the above items, where appropriate. The unitization agreement shall be submitted to the parties for their approval.

Guyana

33. The Guyana Geology and Mines Commission has no joint body convened for the purpose of exploration, exploitation or management of transboundary oil or gas.

Iraq

34. Technical committees have been formed and are working to establish formulas for joint cooperation between Iraq and its neighbouring countries.

Jamaica

35. Pursuant to article 4 of an agreement with Colombia, the parties have established a joint commission to develop the modalities for activities for the exploration and exploitation of natural resources, whether living or non-living; ensure compliance with regulations and measures adopted by the parties for exploration and exploitation activities in the joint regime area; and carry out any functions assigned to the commission by the parties to implement the agreement. The joint commission consists of one representative of each party, who may be assisted by such advisers as considered necessary. The commission makes recommendations to the parties, which become binding when adopted by the parties.

Kuwait

36. **Wafra Joint Operations.** Exploration, exploitation and management of oil and gas resources is the joint responsibility of two companies, the Kuwait Gulf Oil Company and Saudi Arabian Chevron, with joint operations performed by Wafra Joint Operations, organized by the Joint Operations Committee. The Joint Operations Committee consists of representatives from both companies with equal voting rights. It provides guidance to asset management teams in joint operations and approves business plans and budgets.

37. **Khafji Joint Operations.** Joint bodies, mechanisms and partnerships exist for the exploration, exploitation and management of transboundary oil and gas. In the offshore divided zone, Khafji Joint Operations is the entity established to operate and manage the oil and gas field on behalf of both shareholders in an equal partnership. The Joint Executive Committee and Joint Operations Committee are two high-level committees, with equal representation by both shareholders, which act as the main authority to approve and monitor all major activities within the joint operations and to ensure that best practices are used for the exploration, exploitation and management of the oil and gas reserves in the offshore divided zone.

Myanmar

38. Since Myanmar does not have any agreements, arrangements or practices with neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources, there are no joint bodies, mechanisms or partnerships (public or

private) involving exploration, exploitation or management of transboundary oil and gas.

Norway

39. Any transboundary oil and gas resources belonging partly to Norway are exploited as a unit by commercial companies having been awarded exclusive rights to do so by the Government of Norway and the Government on the other side of the delimitation line respectively. Such exploitation is subject to a unit agreement being entered into by the relevant companies on both sides of the delimitation line and to such unit agreement being approved by the two relevant Governments. Upon receipt of such approval, the relevant companies on both sides of the delimitation line form a joint venture for the purpose of exploiting the transboundary oil and gas deposit as a unit.

Portugal

40. Portugal responded "No".

Slovakia

41. A bilateral commission has been established under the provisions of the Common Oil and Gas Resources Exploitation Agreement between the Czechoslovak Republic and the Republic of Austria. The Commission calculates the capacity of all underground fields and the amounts of each participant's share. The Commission also sets the conditions for exploitation.

Tajikistan

42. There are no joint bodies, mechanisms or partnerships (public or private) involving exploration, exploitation or management of transboundary oil or gas in Tajikistan.

Thailand

43. The Malaysia-Thailand Joint Authority has been established as a statutory body to assume all rights and responsibilities on behalf of the two Governments (Thailand and Malaysia) to explore and exploit non-living resources, particularly petroleum, in the offshore overlapping continental shelf area claimed by the two countries and known as the "joint development area" for a period of 50 years commencing from the date the memorandum of understanding came into force (22 February 1979). The Joint Authority consists of two joint-chairmen, one from each country, and an equal number of members from each country.

United Kingdom

44. Bilateral agreements for the exploitation of transboundary structures or fields on the United Kingdom continental shelf usually include provisions for the Governments to meet, as required, in a consultative commission or other forum to facilitate the implementation of the agreement, address matters that may be raised by either Government, or consider licensee disputes raised under the licensee agreements. The commission or forum will generally be limited to a specified number of Government representatives, but the agreements may also provide for

reference to external arbitration. An example can be found in the new framework agreement between the United Kingdom and Norway at http://www.og.dti.gov.uk/upstream/infrastmcture/index.htm.

United States

45. The United States has identified no joint bodies, partnerships or formal mechanisms with Mexico or Canada to address exploration, exploitation and management of transboundary oil or gas. Along its maritime boundary, the United States itself does not engage in these forms of activity, but instead issues outer continental shelf leases within United States jurisdiction on a competitive basis to private oil and gas companies. These leases and their operators must adhere to United States laws and regulations and to the terms of the lease. (See the Outer Continental Shelf Lands Act and its implementing regulations, the most pertinent of which are found at Code of Federal Regulations, Title 30, parts 250, 256 and 260).

D. Question 3

If the answer to question 1 is yes, please answer the following questions on the content of the agreements or arrangements and regarding the practice:

(a) Are there any specific principles, arrangements or understandings regarding allocation or appropriation of oil and gas, or other forms of cooperation?

Please provide a description of the principles, provisions, arrangements or understandings.

(b) Are there any arrangements or understandings or is there any practice regarding prevention and control of pollution or regarding other environmental concerns, including mitigation of accidents?

Please provide further description.

Cuba

46. There is no arrangement or practice with Cuba's neighbouring States (Mexico and the United States) for the prevention or control of pollution or other environmental problems. To date, no agreements on cooperation in salvage rescue or intervention in the case of accidents have been signed.

Cyprus

47. The apportionment of reserves on each side of the median line and the allocation or appropriation of oil and gas is determined by the licensees in the unitization agreement and is subject to the approval of the States. The assistance of an independent, third-party expert may be called upon.

48. The framework agreement provides that the States shall take all necessary measures so that the concerned licensees comply with the health, safety and environmental requirements provided for in their respective applicable legislation and shall in particular ensure that the performance of the relevant activities, including the construction and operation of facilities and pipelines, shall prevent damage to the marine environment, and that relevant procedures are established for

the safety of navigation and the safety and health of personnel. Furthermore, there are provisions in national legislation (the Hydrocarbons [Prospecting, Exploration and Exploitation] Law and the Hydrocarbons [Prospecting, Exploration and Exploitation] Regulations) for the protection of the environment. Cyprus has also conducted a strategic environmental assessment concerning the hydrocarbon activities within its exclusive economic zone, in which the likely significant environmental effects of implementing hydrocarbon exploration and exploitation activities are identified, described and evaluated. The licensees are bound to follow and comply with the recommendations of the study and must prepare an environmental impact assessment prior to the granting of an exploitation licence. The strategic environmental assessment was conducted in accordance with the relevant European Union directive (2001/42/EC). Cyprus is a party to a number of international conventions and protocols, such as the International Convention for the Prevention of Pollution from Ships of 1973 and its Protocol of 1978, the Convention for the Protection of the Mediterranean Sea against Pollution, the Convention on Wetlands of International Importance, especially as Waterfowl Habitat, the Convention on the Conservation of Migratory Species of Wild Animals, the United Nations Convention on the Law of the Sea, the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer, the United Nations Framework Convention on Climate Change, Agenda 21, adopted at the United Nations Conference on Environment and Development, the Convention on Biological Diversity, the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the Stockholm Convention on Persistent Organic Pollutants.

Jamaica

49. There are no express provisions in the Maritime Delimitation Treaty between Jamaica and Colombia concerning specific principles, arrangements or understandings in respect of the allocation or appropriation of oil or gas in the joint regime area. Article 3 of the Treaty provides, however, that activities in the area shall be carried out on a joint basis as agreed by both parties.

50. Under article 3 of the Treaty, the parties may carry out activities in the joint regime area for the protection and preservation of the marine environment. The article further provides that this shall be done on a joint basis as agreed by both parties. There are no current arrangements regarding the prevention and control of pollution in the joint regime area. Both parties are, however, engaged in ongoing discussions on the exploration and exploitation of non-living resources in the area and will begin discussions on modalities for the preservation and protection of the environment in the area.

Kuwait

51. For Wafra Joint Operations, the Kuwait Gulf Oil Company and Saudi Arabian Chevron share 50 per cent in all aspects related to expenses, manpower and all produced fluids.

52. Specific principles, arrangements and understandings regarding allocation of appropriation of oil and gas are in place for the Khafji Joint Operations.

53. Under the terms of the Joint Petroleum Production Operations Agreement, both partners have an equal and undivided 50 per cent interest in all petroleum acquired

or produced in connection with the joint operations. The Agreement also states that each party shall have the right to receive in kind its proportionate share of each grade and quality of crude oil and natural gas acquired or produced through the joint operations.

54. Wafra Joint Operations, a joint venture of the Kuwait Gulf Oil Company and Saudi Arabian Chevron, complies with the Kuwait Petroleum Corporation health, safety and environment management system and the Kuwait Environment Public Authority and Chevron Operational Excellence standards, which are aimed at controlling pollutants and reducing the release of environmental hazards into the atmosphere. For example, Wafra Joint Operations has started projects to recycle paper and control hazardous material as part of its waste management systems. In addition, to reduce oil leaks, Wafra Joint Operations has been implementing a project to replace flow lines. There is also a project on pit remediation as part of a zero discharge project. The Wafra Central Gas Utilization Project is under study to reduce gas flaring.

55. There are arrangements, understandings and practices in respect of Khafji Joint Operations regarding prevention and control of pollution or regarding other environmental concerns, including mitigation of accidents. Khafji Joint Operations complies with relevant environmental regulations and other requirements applicable to its operating activities. In particular, Khafji Joint Operations complies with the environmental standards specified by Saudi Arabia and Kuwait and has developed appropriate guidelines and an environment management system compatible with the objectives of environmental protection prevailing in the region.

56. Khafji Joint Operations has a well-defined performance management system to monitor and mitigate issues pertaining to environment, health and safety incidents. It has also implemented ISO 14001 for its environment management system to establish international standards for management of the environment in its operations.

Norway

57. Any exclusive right to explore for and produce oil and gas on the Norwegian continental shelf is subject to a production licence being awarded to eligible companies. This licence is exclusive and gives the holders the right, within a specified time limit, to explore for and produce any oil and gas discovered in the area covered by the licence.

58. Any production of oil and gas from a transboundary deposit is subject to a unit agreement being entered into by the relevant companies on both sides of the delimitation line and to such unit agreement being approved by the two relevant Governments. Upon receipt of such approval, the relevant companies on both sides of the delimitation line form a joint venture for the purpose of exploiting the transboundary oil and gas deposit as a unit.

59. Any profits resulting from the exploitation of transboundary oil and gas deposits are, in the case of Norway, subject to taxation of the individual companies holding the relevant production licence on the Norwegian side of the delimitation line.

60. The legal basis for the joint operations is always a unitization agreement between the two or more Governments on each side of the delimitation line. In the

case of Norway, our delimitation agreements with Denmark, the United Kingdom and Iceland all foresee that transboundary oil and gas deposits will be exploited on the basis of unitization agreements between the Governments in question.

61. Norway and its neighbouring countries all have national legislation providing that pollution resulting from oil and gas activities is subject to strict liability on the oil companies holding the exclusive rights to conduct exploration for and exploitation of oil and gas in the area where the pollution occurred. These oil companies are also strictly liable to mitigate the effects of accidents resulting in such pollution. Other kinds of accidents shall be mitigated and compensated as far as the oil company holding the relevant exclusive right is responsible and liable for the accident.

Portugal

62. Portugal responded "Not applicable".

Saint Vincent and the Grenadines

63. A draft energy policy has been adopted by Cabinet for discussions with stakeholders.

Slovakia

64. Slovakia has no arrangements, understandings or practices regarding the prevention and control of pollution or regarding other environmental concerns, including mitigation of accidents.

Thailand

65. All costs incurred and benefits to be derived by the Malaysia-Thailand Joint Authority from activities carried out in the joint development area are to be equally borne and shared by the two Governments (Malaysia and Thailand).

66. Under the Malaysia-Thailand Joint Authority Agreement, the Malaysia-Thailand Joint Authority Act 1990 and relevant petroleum income tax acts, the Joint Authority is empowered to award, with the approval of the Governments, contracts for the exploration and exploitation of petroleum resources in the joint development area. Contracts have to be in the form of a production sharing contract.

67. Further information is available in the Agreement between the Government of the Kingdom of Thailand and the Government of Malaysia on the Constitution and other Matters relating to the Establishment of the Malaysia-Thailand Joint Authority, article 9, finance, chapter III: financial provisions.

68. In relation to question 3 (b), the Procedures for Drilling Operations and Procedures for Production Operations of the Malaysia-Thailand Joint Authority contain further information.[1]

United Kingdom

69. A common feature of bilateral agreements delimiting the United Kingdom continental shelf is a requirement to reach further agreement on the manner in which a transboundary petroleum field or structure shall be effectively exploited and the costs and proceeds apportioned. These further agreements provide for both

Governments to approve matters relating to development. These will usually include commercial agreements between the appropriate licensees of each State that are relevant to exploitation of the structure/field; technical arrangements for determining the geological extent of the field or structure and for apportionment between the license groups; appointment of the operator for any field development and decommissioning plans; the role of the Governments and the extent that each Government has jurisdiction over installations and field facilities; the arrangements for measuring petroleum produced; arrangements for maintaining the safety of installations and pipelines; arrangements for third party use of the field and associated facilities; arrangements for environmental protection; and arrangements for dispute settlement.

70. Under the Environmental Impact Assessment Directive and the Integrated Pollution Prevention and Control Directive, member States of the European Union are obliged to advise bordering States of any proposals that could have an impact on the environment in those States and there is therefore a formal procedure for exchanging applications relating to environmental impact assessments and atmospheric emissions. A similar, though less formal, exchange procedure is also in force in relation to discharges to the marine environment controlled under binding agreements made under the Convention for the Protection of the Marine Environment of the North-East Atlantic. In addition to these agreements, the United Kingdom regulators meet with the regulators of bordering States on a regular basis, to discuss general policy issues and specific development proposals.

71. As regards other environmental concerns, including mitigation of accidents, the United Kingdom is party to several international agreements that provide for cooperation in dealing with major marine pollution incidents. Appendix B of the National Contingency Plan provides details of these agreements, which set out roles and responsibilities with regard to notification and response to marine pollution incidents (see www.mcga.gov.uk). United Kingdom offshore oil and gas operators are required to notify regulatory authorities in the event of any oil or chemical spill in the sea, regardless of volume. The Maritime Coastguard Agency has the responsibility, through the previously mentioned international agreements, to notify border States if any pollution is likely to enter their waters.

United States

72. There are no principles, arrangements or understandings regarding allocation or appropriation of oil and gas production from transboundary reservoirs, as no transboundary reservoirs have been identified along the United States maritime boundary. The only forms of cooperation concern data sharing and other limited forms of cooperation described in the Western Gap Treaty with regard to possible transboundary reservoirs.

73. Because the United States has no arrangements or practices regarding the exploration and exploitation of transboundary oil and gas resources, there are no related arrangements or understandings regarding pollution prevention and control or other environmental concerns. As a domestic matter, oil and gas operators operating in areas under United States jurisdiction are required to follow all United States laws and regulations, many of which relate to pollution and environmental issues. For example, see generally the Outer Continental Shelf Lands Act, and specifically its implementing regulations at the Code of Federal Regulations,

Title 30, Part 250. In addition, United States Government inspectors visit and inspect offshore facilities regularly to ensure that all equipment and facilities comply with regulatory requirements.

E. Question 4

Please provide any further comments or information, including legislation or judicial decisions, which you consider to be relevant or useful to the Commission in the consideration of issues regarding oil and gas.

Cuba

74. By decision of the Government of Cuba, the State Commission on the Outer Limit of the Continental Shelf was established to extend the present maritime limit beyond the 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, in accordance with article 76 of the United Nations Convention on the Law of the Sea and, therefore, beyond Cuba's exclusive economic zone in the Gulf of Mexico. That Commission is currently in the process of organizing its submission to the United Nations Commission on the Limits of the Continental Shelf, which will in the future examine oil and gas prospecting and exploitation.

Cyprus

75. The following national legislation has been harmonized with Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons:

(a) Hydrocarbons (Prospecting, Exploration and Exploitation) Law of 2007 (Law 4(I)/2007);

(b) Hydrocarbons (Prospecting, Exploration and Exploitation) Regulations of 2007 (Regulatory Administrative Act 51/2007).

Jamaica

76. Legislation has been enacted in Jamaica only in respect of areas within Jamaica's exclusive jurisdiction[2] and the legislation is not, therefore, applicable to the joint regime area.

Norway

77. Reference was made above to the texts of relevant agreements with neighbouring countries.

Portugal

78. As far as is known, there is no agreement on maritime boundaries delimitation with Spain. An agreement with Spain on the definition of the maritime boundaries is important, but it should not prejudice Portugal as far as current legislation is

[2] The Maritime Areas Act (1996) and the Exclusive Economic Zone Act (1991).

concerned, i.e. it should take into account the Portuguese legislation in force and keep the median line criterion. The 1958 Convention on the Continental Shelf, which uses the median line for the delimitation of the maritime boundary in areas in dispute, was ratified by Portugal and Spain.

79. Portuguese Act No. 33/77 of 28 May 1977 establishes the width and the limits of the territorial sea and a 200-mile exclusive economic zone. It also stipulates that in case of lack of formally valid agreement between both countries, the limit of the zone is the median line. This law is in accordance with the rule established in the Convention on the Continental Shelf. Subsequently, Portuguese Decree Law No. 119/78 of 1 June 1978 settled the external limits of the exclusive economic zone based on the geographic coordinates of the points that determine the limits, defining the median lines between Portugal and the countries with which it has boundaries (Spain and Morocco) (see map No. 1001-E at the Institute Hidrográfico).

80. The rights that result from the Portuguese legislation were reaffirmed in the decree of the President of the Republic of Portugal No. 67-A/97 of 14 October 1997 for ratification of the United Nations Convention on the Law of the Sea.

81. In 2002, in accordance with Portuguese legislation, a bidding round was opened for the concession of oil (liquid and/or gas) exploration and production rights in 14 blocks of the deep offshore (published in the Portuguese Official Gazette and in the Official Journal of the European Union). Block 14 is limited on the east side by the exclusive economic zone line, in accordance with the above-referenced Decree Law No. 119/78.

82. The blocks were defined in the Universal Transverse Mercator-European Datum 1950 reference system, which is also used in Spain.

83. The Repsol/RWE group made applications for blocks 13 and 14. This group did not just accept and fulfil all requirements but exceeded them. The two blocks were awarded, the contract drafts were initialled and the contracts are expected to be signed.

Saint Vincent and the Grenadines

84. Availability of the Petroleum Stabilization Fund of the Caribbean Community was established in 2004. The Energy Cooperation Agreement (PetroCaribe) was established in 2005.

Tajikistan

85. The Republic of Tajikistan would like to draw the attention of the International Law Commission to the situation in the southern part of Tajikistan, in the Amu Darya District, bordering the Republic of Uzbekistan. There are 16 oil deposits which, due to unresolved demarcation problems, are being used by the Uzbek side. In this regard, Tajikistan is expecting the Commission to propose the best ways for addressing the existing dispute.

United Kingdom

86. The United Kingdom responded that it had no further comments.

United States

87. There is no United States legislation or judicial decision specifically addressing transboundary reservoirs at this time and the relevant agency in the federal Government currently lacks domestic legislative authority to enter into a cooperative development arrangement (such as a joint plan, allocation or unitization arrangement) with a neighbouring State. United States outer continental shelf operators are subject to a number of laws and regulations, including provisions for domestic unitization arrangements between leaseholders in certain circumstances. In general, operators are allowed to explore, develop and produce hydrocarbons from their leased acreage pursuant to the "modern rule of capture", which requires, for example, resource conservation practices and maximizing ultimate recovery from resource reservoirs.

F. Question 5

Are there any aspects in this area that may benefit from further elaboration in the context of the Commission's work? Please indicate those aspects.

Cuba

88. Currently, Cuba considers the Commission's work in the examination of the matter in question to be adequate.

Cyprus

89. With regard to the exploration and exploitation of transboundary oil and gas resources, one aspect that may benefit from further elaboration in the context of the Commission's work is that Israel, the Syrian Arab Republic and Turkey should sign the United Nations Convention on the Law of the Sea, which has been signed by more than 150 countries. The situation in the eastern Mediterranean would be much clearer if those States signed the Convention, since the relevant business environment would benefit from efforts by other States for exploration and exploitation of hydrocarbons in this region.

Myanmar

90. Regarding additional information in the context of Commission's work, Myanmar is pleased to inform the Commission of the current status of cooperation with neighbouring States on a bilateral basis. Myanmar is presently selling around 1.2 billion cubic feet of natural gas to Thailand from the Yadana and Yetagun gas fields in the Myanmar offshore Moattama area via pipeline to the Myanmar-Thailand border and sold at the border to Thailand in accordance with an export gas sales agreement, since 1998 and 2000 respectively. In addition, oil companies from neighbouring States have signed production sharing contracts with the Myanmar Oil and Gas Enterprise, the national oil company, to explore and develop the oil and gas resources of Myanmar onshore, offshore and in deepwater blocks.[3] Plans are also under way to sell natural gas from Myanmar's Rakhine specified offshore blocks via

[3] The list of such agreements is available for consultation at the Codification Division of the Office of Legal Affairs.

pipeline to China. Feasibility studies and front-end engineering and design are in progress.

Norway

91. Legal certainty is a key factor in dealing with transboundary oil and gas resources, and this is provided for as according to international law States have a sovereign right to the exploitation of these resources and, to the extent necessary, have entered into bilateral treaties made to handle the individual cases specifically.

United Kingdom

92. The United Kingdom responded "Not in the view of the United Kingdom".

United States

93. The United States believes that State practice in the area of transboundary oil and gas resources is divergent and relatively sparse, and that specific resource conditions likewise vary widely. In addition, development of oil and gas resources, including transboundary resources, entails very sensitive political and economic considerations. Given these factors, the United States does not believe it would be helpful or wise for the Commission to study this area further or attempt to extrapolate rules of customary international law from limited practice.